

Town of Yates February Board Meeting
8 S. Main St., Lyndonville, NY 14098
February 8, 2018, 7:00PM

Present: Jim Simon, Supervisor
Wes Bradley, Councilman
John Riggi, Councilman
Jim Whipple, Councilman
Harold Suhr, Councilman
Michele Harling, Town Clerk
Andrew Meier, Town Attorney
Trisha Laszewski, Town Assessor
Dan Wolfe, Code Enforcement Officer

Excused: Roger Wolfe, Highway Superintendent

Others:	Larry Wolfe	Steve Royce	Becky Winters
	Howard Pierce	Linda Fisk	Cynthia Hellert
	Richard Hellert	James Hoffman	Bob LaPorte
	Agnes LaPorte	Alice Wolanyk	Betty Wolanyk
	Chris Craft	Georgette Stockman	Paul Lauricella
	Taylor Quarles	Kathy Evans	Jim Bansbach
	Mike Basil	Faith Basil	

Supervisor Simon called the February Board Meeting to order at 7:00PM.

PLEDGE OF ALLEGIANCE

SUPERVISOR REMARKS

Supervisor Simon mentioned that the agenda had changed at around 3:00-3:30pm that day so if anyone had any questions, please do not hesitate to ask.

PRIVILEGE OF THE FLOOR ON AGENDA ITEMS ONLY

Taylor Quarles, Lighthouse Wind, commented on Resolution No. 37-2/18 and referred to it as a “ban” on wind energy in Yates. He added that the new setbacks would be far and above any seen in the over 20 successfully operating wind farms and greater than those in Cassadaga. He said that he is here to represent the 100 signed landowners and unsigned project supporters that want the Lighthouse Wind Project and asked that the Board adopt reasonable siting guidelines. He stated that the Town indicated in a USFWS letter sent on May 6, 2015 to Lighthouse Wind that the 3-mile setback was based on information associated with a 10 year old wind project in Huron County, Michigan where they claim that large numbers of wildlife during migration will be impacted by wind energy development. Lastly, he said that the USFWS is working with Apex to “design and implement site-specific studies and review findings for the Lighthouse Wind

project to make informed decisions on siting, impact avoidance, operational protocols and monitoring if the project is built”.

Supervisor Simon mentioned 2 letters; one dated May of 2015 and another dated January 12, 2016 and questioned which letter Taylor was referring to and asked why the disconnect.

Taylor Quarles, Lighthouse Wind, disagreed with Supervisor Simon’s understanding of the matter.

Supervisor Simon responded that the new law would not “ban” industrial wind turbines and he objects to APEX stating that it is when there are still areas of the Town where they could be sited.

Councilman Riggi explained that the Board is charged with protecting its citizens and that Lighthouse Wind is a project that is inappropriately sited.

Councilman Suhr asked the audience if they recognize the name Phillip Morris. He said that back in 1964 the cigarette company stated that cigarettes were good for you, much like what APEX is implying about industrial wind turbines today.

Taylor Quarles said that industrial wind turbines are located all over the world and that these companies are not lying about the safety of these projects.

Steve Royce, Town of Appleton, said that he is less than 1 mile outside of the project area and that he fully supports the proposed 3-mile setback from the lakeshore because he sees bald eagles at least 2-3 times a week.

Linda Fisk, Town of Yates, thought that Councilman Suhr’s reference to a cigarette company was crazy and that people will not be sucking nicotine under the wind turbines. She said that there are wind turbines sited near military bases and that those families are healthy and thriving.

Georgette Stockman, Town of Yates, read a quote from Lt. Governor Kathy Hochul who stated that the State is committed to clean energy and reducing their reliance on fossil fuels but that they are sensitive to the needs of the local communities and want to strike the right balance. Ms. Stockman feels that we already have ample amounts of viable green energy provided by Niagara Falls and that we don’t need industrial wind turbines.

Betty Wolanyk, Town of Somerset, said that she was in favor of Resolution Nos. 35, 36, 37 and 38 and encouraged the Board to pass them. She said that she supports a 5-mile setback from the lakeshore.

Supervisor Simon said that they had considered 5-mile setbacks and that one of the studies they looked at recommended 6-mile setbacks.

Paul Lauricella, Town of Yates, questioned Resolution No. 39-2/18 and what has been changed in the Town of Yates Handbook.

Supervisor Simon responded that the Handbook was last updated in 2003 and that the Board has been working toward updating the current book for 2 years now. He added that it's nearly done and when complete will be available for the public to view. He said that when it is adopted all of the Town employees will have to read and acknowledge the new handbook.

Howard Pierce, Town of Yates, commented on Resolution No. 33-2/18 and whether or not there needed to be a Public Hearing to continue the Cold War Veteran's Exemption. He said that after reviewing the setbacks in Resolution No. 35-2/18, maybe 1 or 2 turbines could be sited in the Town. He feels that the Boards position on the APEX Lighthouse Wind project has been very clear since January of 2016 and that Resolution No. 36-2/18 is unnecessary.

Tricia Laszewski, Town Assessor, responded that the Cold War Veterans' Exemption would require a Public Hearing because the current exemption will expire on December 31, 2018.

Agnes LaPorte, Town of Somerset, is in favor of all of the wind resolutions and said that "We need to close the barn door before the horses get out". She said that 10 years ago we never expected that this quiet area could become industrialized and she thanked the Board for trying to protect its constituents.

RESOLUTION NO. 30-2/18

RESOLUTION TO APPROVE MINUTES

RESOLVED, to approve the minutes of the January 11, 2018 Organizational and Regular Board Meeting as presented to each Board Member.

Offered by Councilman Riggi, who moved its adoption
Seconded by Councilman Suhr

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 31-2/18

RESOLUTION TO ACCEPT THE MINUTES AND TRANSCRIPTIONS OF THE JANUARY 8, 2018 WECS PUBLIC HEARING MEETING

RESOLVED, to accept the minutes and transcriptions of the WECS Public Hearing meeting held January 8, 2018 as presented to each Board Member.

Offered by Councilman Whipple, who moved its adoption
Seconded by Councilman Riggi

4 Ayes 0 Nays 1 Abstain (Bradley)

Motion: Carried

RESOLUTION NO. 32-2/18

RESOLUTION TO MODIFY CODE ENFORCEMENT OFFICER'S TIME AND BENEFITS

RESOLVED, the Code Enforcement Officer shall work on Mondays from 8:00AM until 4:00PM, he shall be allowed 4 Holidays and 1 Personal Day and any other time shall be made up.

Offered by Councilman Bradley, who moved its adoption
Seconded by Councilman Whipple

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 33-2/18

RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 2 OF 2018 ENTITLED "A LOCAL LAW REPEALING THE TOWN DOG CONTROL LAW" AND TO SCHEDULE A PUBLIC HEARING

WHEREAS, the Town Board of the Town of Yates, New York desires to consider adopting legislation to repeal its current dog control law, be it

RESOLVED, that proposed Local Law No. 2 of 2018 entitled "A Local Law Repealing the Town Dog Control Law", which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, is hereby introduced for adoption; and be it further

RESOLVED, that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and a copy thereof be kept on file in the office of the Town Clerk until March 5, 2018, and that a public hearing be held before this Town Board on the 5th day of March, 2018, at 5:30 p.m. at the Yates Town Hall, on the advisability of enacting said proposed Local Law; and be it further

RESOLVED, that the Town Clerk shall cause notice of said public hearing to be published once in The Batavia Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office.

**NOTICE OF PUBLIC HEARING BY THE TOWN BOARD
OF THE TOWN OF YATES, NEW YORK**

TO CONSIDER ADOPTING A PROPOSED LOCAL LAW

PUBLIC NOTICE is hereby given that there has been presented to the Town Board of the Town of Yates, New York proposed Local Law No. 2 of 2018 entitled “A Local Law Repealing the Town Dog Control Law.” Said Local Law will repeal certain provisions of the dog control law to permit the County of Orleans to enforce the county dog control law in the Town of Yates.

PLEASE TAKE FURTHER NOTICE that on 5th day of March, 2018, at 5:30 o'clock in the afternoon of that day the Town Board of the Town of Yates, New York, will conduct a public hearing at the Yates Town Hall located at 8 South Main Street, Lyndonville, New York, for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons interested will be heard.

A copy of said proposed Local Law is on file at the office of the Yates Town Clerk, 8 South Main Street, Lyndonville, New York and is open for inspection during regular Office hours.

Dated: Lyndonville, New York
February 8, 2018

Michele Harling, Town Clerk
Town of Yates, New York

Offered by Councilman Bradley, who moved its adoption
Seconded by Councilman Suhr

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 34-2/18

RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 3 OF 2018 ENTITLED “A LOCAL LAW EXTENDING PROPERTY TAX EXEMPTION FOR COLD WAR VETERANS” AND TO SCHEDULE A PUBLIC HEARING

WHEREAS, the Town Board of the Town of Yates, New York desires to consider adopting legislation to extend a property tax exemption for Cold War veterans, be it

RESOLVED, that proposed Local Law No. 3 of 2018 entitled “A Local Law Extending Property Tax Exemption for Cold War Veterans”, which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, is hereby introduced for adoption; and be it further

RESOLVED, that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and a copy thereof be kept on file in the office of the Town Clerk until March

5, 2018, and that a public hearing be held before this Town Board on the 5th day of March, 2018, at 5:35 p.m. at the Yates Town Hall, on the advisability of enacting said proposed Local Law; and be it further

RESOLVED, that the Town Clerk shall cause notice of said public hearing to be published once in The Batavia Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office.

**NOTICE OF PUBLIC HEARING BY THE TOWN BOARD
OF THE TOWN OF YATES, NEW YORK**

TO CONSIDER ADOPTING A PROPOSED LOCAL LAW

PUBLIC NOTICE is hereby given that there has been presented to the Town Board of the Town of Yates, New York proposed Local Law No. 3 of 2018 entitled "A Local Law Extending Property Tax Exemption for Cold War Veterans." Said Local Law will extend a property tax exemption on property owned by certain veterans, which would otherwise expire.

PLEASE TAKE FURTHER NOTICE that on 5th day of March, 2018, at 5:35 o'clock in the afternoon of that day the Town Board of the Town of Yates, New York, will conduct a public hearing at the Yates Town Hall located at 8 South Main Street, Lyndonville, New York, for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons interested will be heard.

A copy of said proposed Local Law is on file at the office of the Yates Town Clerk, 8 South Main Street, Lyndonville, New York and is open for inspection during regular Office hours.

Dated: Lyndonville, New York
February 8, 2018

Michele Harling, Town Clerk
Town of Yates, New York

Offered by Councilman Whipple, who moved its adoption
Seconded by Councilman Riggi

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 35-2/18

RESOLUTION REGARDING OFFSHORE LAKE ONTARIO LARGE-SCALE INDUSTRIAL WIND TURBINE PROJECT DEVELOPMENT IN TOWN OF YATES AND ORLEANS COUNTY

WHEREAS, the State of New York released its Offshore Wind Master Plan in January 2018 which estimates that thirty percent of New York's renewable power will derive from offshore wind, and

WHEREAS, the Lake Ontario lakefront counties of Niagara, Monroe, Wayne, Oswego and Jefferson have all banned offshore large-scale industrial wind turbine project development, and

WHEREAS, Orleans County is one of only two counties (along with Cayuga County) on the Lake Ontario Shoreline to have not yet enacted a ban on offshore large-scale industrial wind turbine project development, and

WHEREAS, the waters and shoreline of the Lake Ontario littoral consistently return millions of tourism dollars annually to the local economy through fishing, recreational boating, swimming, cottage rentals, hiking and biking, and local festivals and community celebrations, and

WHEREAS, Orleans County, the Town of Yates and our residents have worked tirelessly to improve water quality and rebuild public facilities so visitors and residents can continue to enjoy the unblemished beauty of our Lake Ontario shoreline and its beautiful sheltered embayments, and

WHEREAS, the establishment of large-scale industrial wind emplacements off the Town of Yates and Orleans County's Lake Ontario shoreline threatens the way of life of lakefront property owners and the thriving tourism economy and the resulting revenues that local businesses depend upon, and

WHEREAS, The New York Power Authority publicly stated in June 2010 that projects should only be sited in Lake Ontario where wind speeds are 17 miles per hour or greater, water depths are 150 feet or less and that turbines are not located in shipping lanes, and

WHEREAS, these location variables would impose a severe encroachment on the Orleans County and Town of Yates shoreline of Lake Ontario, and

WHEREAS, Lake Ontario in Orleans County is home to numerous submerged cultural resources for which New York State is responsible to protect and provide public access under the Abandoned Shipwreck Act of 1987, and construction of wind turbines will likely limit access to these historic resources for research and recreational purposes, and may pose a threat of destruction of these irreplaceable resources, and

WHEREAS, Orleans County and the Town of Yates Lake Ontario littoral are home to the North American Flyway, one of the most significant bird migratory routes in the western hemisphere, and

WHEREAS, no study exists that measures the environmental, quality of life or economic impact to the local residents and business owners should a large-scale industrial wind turbine emplacement of this magnitude be established, and

WHEREAS, Orleans County, the Town of Yates and our residents support energy conservation as part of a responsible energy policy and urges the State of New York to continue to seek ways to reduce energy consumption, which could in turn reduce the need for energy generation over time, and

WHEREAS, both the Western Orleans Comprehensive Plan and the Yates, Carlton, Kendall Lake Waterfront Revitalization Program (LWRP) place significantly high emphasis on the cultivation, preservation and enhancement of the Lake Ontario littoral's rural, agricultural and leisure-based character, be it

RESOLVED by the Town Board of the Town of Yates:

1. Formally and resolutely opposes any offshore, large-scale, industrial wind turbine project development off the coast of Lake Ontario in the Town of Yates.
2. Officially requests the Orleans County Legislature resolve to oppose offshore large-scale, industrial wind turbine project development in Lake Ontario for the full shoreline length of Orleans County.
3. This resolution shall be enacted and in effect immediately.

Offered by Councilman Riggi, who moved its adoption
Seconded by Councilman Suhr

Councilman Whipple said that he thought that the Town's jurisdiction stopped at the high water mean of Lake Ontario and that he felt the LWRP should be addressing this issue, not the Town Board.

Councilman Riggi said that the LWRP committee is familiar with Governor Cuomo's plan for offshore wind and that Orleans County is 1 of 2 counties (the other is Cayuga County) that does not formally oppose off shore wind projects and that this resolution asks Orleans County for their support.

Supervisor Simon added that the Town's jurisdiction is very limited.

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 36-2/18

RESOLUTION ISSUING NEGATIVE DECLARATION FOR LOCAL LAW NO. 1 OF 2018 AMENDING THE TOWN OF YATES WIND ENERGY FACILITIES LAW OF 2008

WHEREAS, before the Town Board of the Town of Yates (the “Town Board”) is Local Law No. 1 of 2018 entitled “A Local Law to Amend the Wind Energy Facilities Law of 2008” (the “Action”); and

WHEREAS, the Town Board is the Lead Agency pursuant to the State Environmental Quality Review Act (“SEQRA”), as it is the only agency that has discretionary approval authority over this Action; and

WHEREAS, the Town Board has determined that the Action is a “Type I” action under SEQRA; and

WHEREAS, the Town Board has duly considered the Action, the full Environmental Assessment Form, the criteria for determining significance set forth in 6 N.Y.C.R.R. § 617.7(c), the draft Negative Declaration, and such other information deemed appropriate; and

WHEREAS, the Town Board has identified the relevant areas of environmental concern, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination; NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Yates that:

1. Based upon a thorough review and examination of the known facts relating to the Action and its careful review of all potentially adverse environmental impacts, and the entire record and proceedings relating to the Action, the Board finds that the Action will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared.

2. The attached negative declaration, incorporated herein by reference, is issued and adopted for the reasons stated in the attached negative declaration.

3. The Town Supervisor and/or Town personnel are hereby authorized and directed to distribute copies of the resolution as necessary and to publish the requisite notice in the ENB.

4. This resolution is effective immediately.

Offered by Councilman Riggi, who moved its adoption
Seconded by Councilman Suhr

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 37-2/18

RESOLUTION ADOPTING LOCAL LAW NO.1 OF 2018, AMENDMENTS TO THE WIND ENERGY FACILITIES LAW OF THE TOWN OF YATES OF 2008 (AS AMENDED), SECTION 591 OF THE YATES ZONING LAW

WHEREAS, the Town Board of the Town of Yates has introduced pursuant to the Municipal Home Rule Law a local law amending Wind Energy Facilities Law of the Town of Yates of 2008 (as Amended), Section 591 of the Yates Zoning Law (the “Local Law”), a copy of which is attached and incorporated herein, and

WHEREAS, the Local Law was referred to the Town and County Planning Boards, and

WHEREAS, the Town Board conducted a duly noticed public hearing on the proposed Local Law, and

WHEREAS, pursuant to the State Environmental Quality review Act the Town Board identified the potential environmental impacts from the Local Law, has taken a hard look at said impacts and issued a written elaboration for its decision and adopted a Negative Declaration of Environmental Significance, be it

RESOLVED, by the Town of Yates Board as follows:

1. Local Law No. 1 of 2018 amending the Wind Energy Facilities Law of the Town of Yates, is hereby adopted.
2. Notice of this action shall be made in writing to the County Planning Board.
3. This Resolution is effective immediately.

Offered by Councilman Suhr, who moved its adoption
Seconded by Councilman Riggi

4 Ayes 1 Nay (Bradley)

Motion: Carried

RESOLUTION NO. 38-2/18

RESOLUTION OF YATES TOWN BOARD REAFFIRMING FORMAL OPPOSITION TO THE APEX CLEAN ENERGY LIGHTHOUSE WIND LLC PROJECT WITHIN THE TOWN OF YATES

WHEREAS, Apex Clean Energy submitted a Preliminary Scoping Statement in November 2015 with the New York State Public Service Commission, stakeholder elected officials and applicable agencies for a potential Article 10 Commercial Wind Project titled, Lighthouse Wind LLC, in the Towns of Yates and Somerset, and

WHEREAS, the Lighthouse Wind LLC Project proposes as many as seventy-one (71) commercial wind turbines with heights of up to 620 feet tall to be placed within the two towns, and

WHEREAS, New York State adopted revisions to the Article 10 process in 2011 which primarily removed local control for siting such energy projects and debilitated constitutional home rule by placing the ultimate decision to site large energy generation projects by unelected, appointed officials of the State, and

WHEREAS, this Town Board acknowledges that while local control and home rule are limited by the Article 10 law, it will endeavor to make certain to abide by the Article 10 process, and

WHEREAS, the Town Board calls upon the Siting Board to recognize the continuing authority of the Town within the framework of Article 10 and with due regard to all values, provisions, regulations and zoning laws found in the Western Orleans Comprehensive Plan, the Local Waterfront Revitalization Program, the Town of Yates Local Law No. 1 of 2008 (Wind Energy Facilities) as amended in 2016 and 2018, and the management of all town roads in accordance with Article 9 of the New York State Constitution, and

WHEREAS, this Town Board strongly believes that its primary duty is to represent the constituents of the Town of Yates, to be responsive to address their concerns, and to protect their health, safety and welfare, and

WHEREAS, the Town Board previously formally opposed the Apex Clean Energy Lighthouse Wind LLC Project on January 14, 2016 (Resolution No. 29-1/16), be it

RESOLVED, that the Yates Town Board does hereby once again firmly and formally oppose the Apex Clean Energy Lighthouse Wind LLC Project within the Town of Yates because, among other reasons;

- the proposed use does not comply with the comprehensive plan of the community;
- the project will create significant negative visual impacts from aesthetic points in the community and region including but not limited to the Lake Ontario Shoreline, 30 Mile Lighthouse, and state and local parks;
- the location of residences and land designated for residential development throughout the community is inconsistent with the development of utility-scale wind turbines in the Town;
- there are significant resources in adjoining towns that would be harmed by the construction of utility-scale wind turbines in the Town;
- available information indicates the noise impacts in the current rural area would, based on World Health Organization standards and those recently adopted by the State of Vermont, negatively impact the health and the quality of life of residents;
- the local economy has shown great recent strength in agricultural-based manufacturing that would be impaired by loss of productive farm lands;

- the placement of the WNY Science and Technology Advanced Manufacturing Park in a nearby area demonstrates the attractiveness of the lake shore area to employers who could create far greater job growth and require less public support;
- there are areas of significant residential and recreational activity that would be impaired by the noise, visual impact and other hazards - including shadow flicker, ice shedding and blade throw - of utility-scale wind turbines;
- large-scale multiple-tower wind energy facilities may present risks to the property values of adjoining property owners not part of the project;
- significant avian flyways and habitats and bat populations may be severely impacted as documented by the U.S. Fish and Wildlife Service;
- the possibility of unacceptable encroachment on the Niagara Falls Air Reserve Station could jeopardize operational mission effectiveness and make the air base subject to closure in the next Base Realignment and Closure Commission (BRAC); and
- there are significant wetland and other surface and sub-surface hydrological resources that would be negatively impacted by the large scale terrain modification required for the project, and be it further

RESOLVED, that the Yates Town Board will endeavor, through all reasonable means, to make certain that the residents of the Town of Yates will be heard throughout the Article X process; and be it finally

RESOLVED, that certified copies of this resolution be mailed by the Town Clerk to Mark Goodwin, Apex Clean Energy LLC President and CEO, U.S. President Donald Trump, U.S. Senator Charles Schumer, U.S. Senator Kirsten Gillibrand, U.S. Congressman Chris Collins, NYS Governor Andrew M. Cuomo, NYS Lieutenant Governor Kathy C. Hochul, NYS Senator Robert G. Ort, NYS Assemblyman Stephen Hawley, NYS Assemblyman Michael Norris, the Chair of the NYS Department of Public Service (DPS), the Commissioner of the NYS Department of Environmental Conservation, the Commissioner of the NYS Department of Health, the Chair of the New York State Energy Research and Development Authority, the Commissioner of NYS Economic Development (Empire State Development), all party stakeholders of DPS Case No. 14-F-0485, the Chairman of the Niagara and Orleans County Legislatures, the Orleans and Niagara County Economic Development Agencies, the Somerset Town Board, the Barker Central School District Superintendent, the Lyndonville Central School District Superintendent, the Barker Village Board and the Lyndonville Village Board.

Offered by Councilman Suhr, who moved its adoption
 Seconded by Councilman Riggi

Councilman Bradley explained that in the summer of 2015 he was asked by the Board to put together a wind survey to be sent to all of the property owners in the Town. The results of the survey were released in December of 2015 with a 46.57% return. 65% of the respondents opposed the project and 30% were in favor. He said that he wants to represent the majority of his constituents so voted to oppose the project in the past and will oppose it again today even though he does not agree with all of the bullets in the body of the resolution. Lastly he said that he sees different avenues in opposing the project than the other Board Members.

Councilman Suhr said that people have become more informed over the years since the project was introduced and that this project is not what the residents of the Town want.

5 Ayes 0 Nays

Motion: Carried

RESOLUTION NO. 40-2/18

RESOLUTION TO PAY BILLS

WHEREAS, the bills have been reviewed by the Town Board, be it

RESOLVED to pay the bills as follows:

A-Accounts-	\$ 41,365.30
B-Accounts-	\$ 2,197.12
DA-Accounts-	\$ 37,389.87
DB-Accounts-	\$ 2,316.13
Water 4-	\$ 14,107.79
Water 2-	\$ 27,145.39
Fire-	\$ 38,700.00

TOTAL	\$163,221.60

Offered by Councilman Bradley, who moved its adoption
Seconded by Councilman Whipple

5 Ayes 0 Nays

Motion: Carried

PRIVILEGE OF THE FLOOR

Paul Lauricella, Town of Yates, said another election year is upon us and that Governor Cuomo will be running again and that he needs to be defeated. He urged the audience to get behind someone new that will repeal Article 10 because a Town's home rule is so important. He said that Governor Cuomo's plan is to have wind turbine projects up all over the state.

Supervisor Simon warned that we should be careful what we ask for because there are so many differing opinions out there with regard to Article 10 and that a change could actually make the whole process even worse.

Jim Hoffman, Town of Somerset, read part of a report sent from the President of the Nature Conservancy where he stressed the importance of conserving and restoring carbon-storing

powerhouses like forests, grasslands, and wetlands. He said, in other words, “let the green things grow and let rural areas remain rural areas”. He added that we don’t need industrial wind turbines.

Betty Wolanyk, Town of Somerset, supplied the Board with facts from Wyoming County where there are currently 4 Industrial Wind projects. She said that the County is losing 74 students per year, on average, and $\frac{3}{4}$ come from one school district where 3 communities host 3 of the 4 projects. She added that the projects have not helped the school budgets, and that Wyoming County has lost population, businesses, and employment. She said that wind projects only help investors, lease holders, employees of the projects and politicians.

Howard Pierce, Town of Yates, said that the agenda was not posted until 6:00pm on Wednesday and that he would like to see it posted by noon on the Tuesday before the Board Meeting along with some language describing the resolutions so that the public can comment accordingly. He also said that the Board should plant money trees after passing Resolution No. 35-2/18 tonight. With regard to home rule, he asked that anyone other than permanent residents of the Town of Yates save their comments for Public Hearings.

Agnes LaPorte, Town of Somerset, said that the Lighthouse Wind Project will be sited in 2 separate Towns and that Yates residents are allowed to speak at Somerset meetings. She questioned whether or not an earlier comment that suggested that there were 100 signed landowners was true. She feels that 60 would be a closer number unless there are leases out there that have not yet been filed.

Paul Lauricella, Town of Yates, agreed that more information should be available on the website with regard to an explanation or description of the resolutions being considered so that the residents can have a more thorough understanding of and be better prepared for the meeting.

REPORT OF TOWN OFFICERS

Dan Wolfe, Code Enforcement Officer, thanked the Board for amending his contract and said that he attended the required Department of State Training from 1/22/18 – 1/24/18. He added that he is a little behind on his Fire Safety Inspections and that he’ll start working on them on Mondays.

Tricia Laszewski, Town Assessor, said that March 1st, taxable status day, is quickly approaching and that residents need to renew their exemptions by that date.

ADJOURNMENT

Moved by Councilman Whipple, Whereas there is no new business to be brought before the Board that the meeting be adjourned at 7:40PM.

Seconded by Councilman Bradley

5 Ayes 0 Nays

Motion: Carried

Respectfully Submitted
Michele L. Harling
Yates Town Clerk

NEGATIVE DECLARATION
Determination of Non-Significance

Lead Agency: **Town of Yates Town Board**

Date: **February 8, 2018**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Yates Town Board (the “Town Board”), as lead agency, has reviewed the proposed action (“Action”) and determined that it will not have a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

Name of Action: Local Law No. 1 of 2018 – A Local Law to Amend the Wind Energy Facilities Law of 2008.

Location of Project Site: The proposed Local Law is of Town-wide applicability.

SEQRA Status: Type I

Description of Action: The Town is amending the Town of Yates Zoning Code (“Code”), specifically, the Wind Energy Facilities Law of 2008. The proposed Local Law amends substantive requirements on, among other things, the siting of Wind Energy Facilities. This Action does not authorize construction, nor does it permit a specific project or development.

Reasons Supporting this Determination:

The Town Board has identified the relevant areas of environmental concern and has taken a hard look at each of the identified areas as required by the State Environmental Quality Review Act (“SEQRA”). The Town Board compared the proposed Action with the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below in the discussion of each criterion specified in 6 NYCRR § 617.7(c)(1), the Action will not have a significant adverse impact on the environment.

As set forth above, this Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. It does, however, provide amendments to substantive requirements that apply to the siting and operation of such facilities. These amendments are the result of careful study and evaluation by the Town Board. Any proposed project would necessarily require a review pursuant to SEQRA, or an environmental review pursuant to otherwise applicable law. The substantive requirements set forth herein have been designed to reduce adverse impacts from future, proposed projects, to mitigate impacts on community character, public safety, and aesthetics, consistent with the community’s plans and goals.

The Town Board makes the following findings relative to the proposed Local Law, which support the issuance of a Negative Declaration: Careful siting and protections applicable to wind energy facilities are of paramount importance. Local communities have, through zoning, site plan approval, regulation and careful planning been primary protectors of their citizenry. This Local Law will contribute to this effort. The adoption of Article 10 of the Public Service Law does not negate this responsibility, and in fact recognizes it.

Wind energy facilities have increased significantly in number, and can potentially be sited without sufficient regard to their impact on the health, welfare and safety of residents, especially in small rural communities; thus, appropriate local regulations is critical to ensure that they are sited appropriately to mitigate adverse environmental impacts.

By their very nature, wind energy facilities result in significant aesthetic changes to any rural community, due to their height, disruption of views and skylines, particularly in rural flat-landed and coastal communities without many high structures. The substantive requirements set forth in this Local Law will provide the tools available to the Town to ensure that significant adverse environmental impacts are mitigated to the maximum extent practicable.

This Local Law is crucial due to the rural nature of the Town, which is also devoid of large hills and consists of mostly flat terrain and a significant Great Lakes coastline. The Town coastline borders a State Park and has been recognized in official planning documents (the LWRP) adopted by the State and Federal governments as an area of high aesthetic value. This Local Law attempts to harmonize a potential use with significant potential for adverse impacts with the community's plans and goals.

The Local Law has the benefit of protecting the Town as a rural, agricultural community supporting varied agricultural uses and is in the heart of Western New York's fruit growing region. Protection of aesthetic impacts is critical. The Town is bordered on the north by Lake Ontario, and on the east, south and west by Towns which share Yates' agricultural and rural residential character, and are similarly low, flat areas.

As more fully set forth below, the proposed Local Law, while not authorizing development, ensures that appropriate protections and substantive requirements are in place that will take into account and mitigate potential adverse environmental impacts from wind energy facilities.

With respect to the specific amendments set forth in Local Law No. 1 of 2018, the U.S. Fish and Wildlife Service recommends no wind turbines within 3 miles of the Lake Ontario shoreline for the Town of Yates in order to avoid possible severe impact on avian flyways and habitat. Second, the State of Vermont Public Service Board recommends 42 dBA daytime and 39 dBA nighttime noise limits at residential receivers. It is well settled that reliance upon agencies with experience in certain areas is appropriate and the Town of Yates determined to do so here after careful evaluation. Both the U.S. Fish and Wildlife Service and the Vermont Public Service Board base their recommendations on their expertise and, in Vermont's case, an extensive record before the State Public Utility Commission was developed in the formation of its rule. That record included independently prepared expert acoustics and health reports. The Town

determines that the amendments to the Town's Wind Law will not have a significant adverse impact, but will have a positive environmental impact.

(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

a. Traffic Impacts

The Local Law will not have a significant adverse impact upon traffic or transportation. This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. The Wind Law incorporates traffic concerns and impacts into its decision-making process by requiring the analysis of transportation impacts and a transportation plan. It also mandates the use of specific traffic routes established by the Town for construction and delivery vehicles. This regulation provides the mechanisms and substantive requirements to reduce potential impacts. The proposed amendments will not have an impact on traffic.

b. Noise Impacts

This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. However, the substantive requirements impose limitations on noise from wind energy generating facilities and require an applicant to demonstrate compliance with those standards. Noise is a significant impact that will result from the construction and operation of wind energy generating facilities. Appropriate standards have been developed herein and are intended to ensure that wind energy generating facilities are sited so as to minimize adverse environmental impacts from such noise. The noise standards in the Wind Law address methodology, compliance demonstrations, and ongoing enforcement. The proposed Local Law provides further regulation of noise that will be of a greater protection to the environment. There will be no significant adverse noise impacts from the adoption of this Local Law.

b. Air Quality Impacts

The Local Law will not create a significant adverse impact to air quality. No construction is contemplated by the Local Law.

c. Wetland Impacts

This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. Any future construction that may be contemplated must comply with applicable Federal, State, and local laws with respect to wetland impacts. The Wind Law includes a substantive requirement that no wind energy facility shall be located in state or federal wetlands, or within the state wetlands buffer area.

d. Erosion, Flooding and Drainage Impacts

This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. Thus, there will be no erosion, flooding, or drainage impacts from the proposed Local Law. The Wind Law includes a substantive requirement that stormwater runoff and erosion control shall be managed in a manner consistent with all applicable state and federal laws and regulations, including compliance with the Clean Water Act and the requirement to obtain applicable permits for stormwater discharges from construction activities.

e. **Solid Waste Production**

There will be no increase in intensity of use or construction; thus, the proposed Local Law will not increase solid waste production.

(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;

No construction is contemplated. Thus, there will be no removal or destruction of large quantities of vegetation or fauna as the result of the Local Law. Nor will there be substantial interference with the movement of any resident or migratory fish or wildlife species. There will not be any impacts on a significant habitat area or any impacts on wildlife. As set forth above, the proposed local law provides review and substantive requirements for the protection of wildlife and habitats. For example, a wildlife impacts analysis is required for any development application. Wind energy facilities are required to be sited in a manner that minimizes significant negative impacts on animal species, including threatened and endangered species, and species of special interest. Also, monitoring and remedial measures are provided for following operations of wind energy generating facilities.

(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;

There is no Critical Environmental Area within the Town of Yates, thus there will be no significant adverse impacts.

(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

The proposed Local Law is consistent with the Town's current plans and goals. The proposed Local Law is designed to amend the zoning regulations relevant to the siting of wind energy generating facilities. Compliance with the Comprehensive Plan, the LWRP, and the existing uses and rural character of the community were central to the development of this proposed Local Law. Siting requirements, setbacks, designation of zoning districts where such uses are

appropriate, represent the Town's legislative judgment that the proposed Local Law is consistent with its plans and goals and provide protection mechanisms for appropriate siting.

(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;

This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. However, the Wind Law includes substantive requirements related to setbacks and siting that specifically take into account potential visual and aesthetic impacts. A visual impact study is required to be submitted, together with a shadow flicker analysis. Mandatory mitigation is required, such as the prohibition on siting on top of ridgelines, use of natural landforms and existing vegetation for screening, and requirements to screen the facility to the maximum extent feasible. Lighting is restricted, except as required by the FAA. Underground installation of collection lines is a mandatory requirement. These are examples of the standards that work to mitigate impacts from a potential project. The proposed Local Law's amendment to setbacks furthers these efforts to mitigate impacts.

(vi) a major change in the use of either the quantity or type of energy;

There will be no such impacts.

(vii) the creation of a hazard to human health;

The Wind Law requires consideration of impacts on human health from proposed projects. It also provides setback and other restrictions to mitigate impacts from ice throw, turbine collapse, and other potentially hazardous effects of proposed wind energy generating facilities. While no construction is authorized, the Wind Law provides the standards and mechanisms that work to mitigate such impacts in the future. The proposed amendments relating to noise limits and setbacks further protect human health.

(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;

The Wind Law includes wind energy generating facilities as a permitted use in the agricultural zoning districts within the Town. It includes substantive requirements to preserve the Town as an agricultural community. An application requires an agriculture effect report, including a discussion of impacts on all types of agriculture in the Town. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects in effect, as of the date of an application, must be adhered to on agricultural properties, both inside and outside of state agricultural districts. Decommissioning requirements are important, not only for visual mitigation, but to ensure that subsequent use of land for agricultural purposes is preserved. The proposed Local Law does not represent a substantial change in the use or intensity of use of land.

(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;

There will be no such impacts.

(x) the creation of a material demand for other actions that would result in one of the above consequences;

There will be no such impacts.

(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

There will be no such impacts.

(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

There will be no such impacts.

For Further Information:

Contact Person: James Simon

Address: Town of Yates
8 South Main Street
Lyndonville, NY 14098

Telephone Number: (585) 765-9716